

### **REMARKS**

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 2-3, 5, 7-9, 11-13, 15-19, and 21-24 were pending in the application, of which Claims 3, 11, and 21 are independent. In the Office Action dated January 25, 2008, Claims 2-3, 5, 7-9, 11-13, 15-19, and 21-24 were rejected under 35 U.S.C. § 103(a). Following this response, Claims 2-3, 5, 7-9, 11-13, 15-19, and 21-24 remain in this application. Applicants hereby address the Examiner's rejections in turn.

#### **I. Rejection of the Claims Under 35 U.S.C. § 103(a)**

In the Office Action dated January 25, 2008, the Examiner rejected Claims 2-3, 5, 7-9, 11-13, 15-19, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. Patent App. No. 2002/0198909 ("*Huynh*"). In the Office Action, the Examiner states that 35 U.S.C. § 103(c) does not apply to disqualify the *Huynh* reference under the common ownership exception because *Huynh* was published on December 26, 2002, and is therefore prior art under 35 U.S.C. § 102(a). (See Office Action, page 10.)

MPEP § 715.01 states that "subject matter, disclosed but not claimed in a patent or application publication filed jointly by S and another, is claimed in a later application filed by S, the joint patent or application publication is a valid reference under 35 U.S.C. § 102(a) or (e) unless overcome by affidavit or declaration under 37 CFR 1.131 or an unequivocal declaration under 37 CFR 1.132 by S that he/she conceived or invented the subject matter disclosed in the patent or application publication and relied on in the rejection." Applicants respectfully submit a declaration under 37 CFR 1.132 stating that *Huynh* is based on Applicants' own work. Accordingly, *Huynh* may not be used as prior

art against the present application and Applicants respectfully request withdrawal of this rejection.

## II. Conclusion

In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,  
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